

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

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April 10, 2012

**FROM: CHRISTINE KELLY, Director
Land Use Services Department**

**SUBJECT: INTERIM URGENCY ORDINANCE ESTABLISHING A TEMPORARY
MORATORIUM ON THE ESTABLISHMENT OF: (1) ALCOHOL AND DRUG
FREE FACILITIES (AKA SOBER LIVING FACILITIES); AND, (2) ALCOHOLISM
OR DRUG ABUSE RECOVERY OR TREATMENT FACILITIES TREATING
SEVEN (7) OR MORE PERSONS, BOTH SUBJECT TO REASONABLE
ACCOMMODATION, TO ALLOW TIME FOR CONSIDERATION OF
APPROPRIATE AMENDMENTS TO THE COUNTY DEVELOPMENT CODE**

RECOMMENDATION(S)

1. Read title only of proposed urgency interim ordinance for a temporary moratorium on the establishment of: (1) Alcohol and Drug Free Facilities (aka Sober Living Facilities); and, (2) Alcoholism or Drug Abuse Recovery or Treatment Facilities treating seven (7) or more persons, both subject to reasonable accommodations provided for housing for disabled persons, to allow time for consideration of appropriate amendments to the County Development Code;
2. Waive reading of the entire text;
3. Adopt the findings;
4. Adopt the urgency interim Ordinance (Four votes required); and
5. File Notice of Exemption.

(Affected Districts: All)

(Presenter: Christine Kelly, Director, 387-4431)

BOARD OF SUPERVISORS COUNTY GOALS AND OBJECTIVES

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

Maintain Public Safety.

Provide for the Health and Social Services Needs of County Residents.

Pursue County Goals and Objectives by Working with Other Governmental Agencies.

FINANCIAL IMPACT

Approval of this item will not result in Net County Cost (Discretionary General Funding).

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BACKGROUND INFORMATION

Over the last decade, many communities in the State of California have seen a significant increase in the number of residences being utilized as Sober Living facilities, which do not require a state license, as well as state-licensed group facilities that are treating recovering drug and alcohol addicts in Alcoholism or Drug Abuse Recovery or Treatment Facilities (Alcohol/Drug Treatment Facilities). Recently, a number of San Bernardino County (County) citizens have expressed concern over the proliferation of group homes and other transitory uses in residentially zoned districts in the County, including recent concerns raised by residents in the mountain communities regarding the new construction of single family homes that reportedly are specifically designed to accommodate group homes. Residents have raised concerns about impacts to their neighborhood, including nuisance and potential for criminal activity, overcrowding, parking, noise, and the effect on neighborhoods that would result from clusters of these types of facilities in close proximity to each other. While the County has Development Code criteria to address certain types of transitory uses in residentially zoned districts, amendments to the Development Code will be necessary in order to ensure that Sober Living Facilities of any size and Alcohol/Drug Treatment Facilities, treating seven (7) or more persons, are reasonably regulated so that they blend in with, and not take over, single-family neighborhoods. State-licensed Alcohol/Drug Treatment Facilities, with six (6) or fewer residents, are considered a permitted residential use under state law and the County cannot require a use permit for this type of facility in a single family residential district. While State-licensed Alcohol/Drug Treatment Facilities that serve seven (7) or more persons are considered a residential use, the County may require that they be established in a multi-family residential district with a use permit. Since Sober Living Facilities are not licensed by the State, the County has greater discretion to establish reasonable criteria and standards that protect the neighborhood, while serving the needs of the disabled. However, there are state and federal regulations relating to housing for disabled persons that must be considered when regulating these uses.

The Federal Fair Housing Act, 42 U.S.C. § 3601 et seq. ("FHA") and the California Fair Employment and Housing Act, Government Code § 12900 et seq. ("FEHA"), prohibit enforcement of zoning ordinances which intentionally discriminate or have the effect of discriminating against the disabled in the provision of housing opportunities. The main objectives of the FHA and FEHA (and California's Lanterman Act, Welfare and Institutions Code § 4500 et seq. ("Lanterman Act")) are to provide a broader range of housing opportunities to the disabled; to free the disabled, to the extent possible, from institutional living; and to ensure that disabled persons have the opportunity to use and enjoy a dwelling in a manner similar to opportunities enjoyed by the non-disabled. To fulfill these objectives, the FHA and FEHA require that local jurisdictions make an accommodation to their zoning ordinances, if such accommodation is reasonably necessary to afford a disabled person an equal opportunity to use and enjoy a dwelling. The Lanterman Act supports these objectives in part by requiring local jurisdictions to treat state-licensed care facilities serving six or fewer disabled persons, as a single family use for all zoning purposes. Pursuant to state and federal laws, certain specified addictions relating to drugs and alcohol are considered disabilities.

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To prevent the continued expansion of transitory uses that may be harming the residential character of San Bernardino County's neighborhoods, the attached interim urgency ordinance will place a 45-day moratorium (effective immediately) on the establishment of new Sober Living Facilities of any size and Alcohol/Drug Treatment Facilities treating seven (7) or more persons. The urgency ordinance imposes a moratorium on those state licensed facilities that provide housing and alcoholism or drug abuse recovery or treatment services to seven (7) or more persons that are: (1) in the same building; or, (2) in multiple buildings, provided that all of the buildings are integral components of the same facility and are under the control and management of the same licensee. The interim urgency ordinance establishes a procedure for persons with disabilities to make a request to the County for reasonable accommodations in the application of this moratorium during its pendency. After the 45-day moratorium, the Board of Supervisors may, after notice and hearing, extend the urgency ordinance for an initial period of time up to ten (10) months and fifteen (15) days. Thereafter, after another public hearing, an additional one (1) year extension is permitted. Government Code Section 65858 permits an interim urgency ordinance to be adopted for a 45-day period without following the notice and hearing requirements normally required for adoption of a zoning ordinance.

Even with this urgency ordinance in place, Sober Living and Alcohol/Drug Treatment Facilities will be treated more favorably than similar congregate living uses because the former provide housing for individuals with disabilities. During the pendency of this moratorium, Sober Living Homes of any size and Alcohol/Drug Treatment Facilities treating seven (7) or more persons may seek a reasonable accommodation from this urgency ordinance to locate in single family residential zones. By contrast, under the current Development Code, unlicensed Group Housing and Boarding Homes are regarded as a multiple family use permitted only in multi-family residential districts with a use permit.

The adoption of this interim urgency ordinance will provide an opportunity for the County to assess the concerns the residents have brought forward concerning these types of transitory uses in residential zoning districts, analyze the impacts created by these types of transitory uses, develop regulations that are tailored to the impacts, protect the community, and comply with federal and state fair housing laws.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Bart Brizzee, Principal Assistant County Counsel, 387-5280, and Robin Cochran, Deputy County Counsel, 387-8957) on April 2, 2012; Land Use Services (Josue Palos, Administrative Supervisor I, 387-0295) on April 2, 2012; and County Administrative Office (Dena Smith, Deputy Executive Officer, 387-5425, and Michael Knight, Administrative Analyst III, 387-4072) on April 2, 2012.

CADPAAC

County Alcohol and Drug Program
Administrators Association of California

*Dedicated to the reduction of individual and community problems related to the use of alcohol and other drugs
and the chronic disease of addiction*

CADPAAC Policy Statement: Department Restructuring

Background & Issues:

As part of the anticipated FY 2012-13 Budget plan, the Administration has proposed the elimination of the Department of Alcohol & Drug Programs (DADP), along with the Department of Mental Health (DMH), and the transfer of those departments' functions to other state departments.

Given that the Administration has not yet submitted a policy or plan for how it proposes to address the impact of substance use disorders (SUD) and the need for SUD services in California, CADPAAC believes it is premature to eliminate the department that is the sole focus for these services, and therefore opposes this provision of the Administration's proposal. The fact is, substance abuse is one of the major health issues of our time. Eliminating a department is not a policy, and it does not eliminate the problem. Undiagnosed and untreated substance use disorders are a major driver of preventable costs of the medical care system, child welfare system, criminal justice system, and others. The goals of health care reform cannot be realized without a strong and comprehensive mental health and substance abuse system of care. If the Administration believes that the need for these services would best be met by eliminating ADP and DMH, and transferring those functions to another department or departments, that proposal should be explained in a thoughtful analysis regarding how the need for MH/SUD services can better be realized by a restructuring of the state departments, and how clients of these systems will be better served by this reorganization. The proposals should also be included in a state plan with clear policy direction, rather than in a budget proposal.

DADP serves a key role as the federally-designated Single State Agency (SSA) for SUD services, and directs numerous public policy initiatives in addition to various core functions, such as administering the Federal Block Grant, assuring compliance with federal and state regulations, licensing and certifying treatment programs, collecting and reporting data, maintaining outcomes measurement systems, providing technical assistance and training, interfacing with criminal justice and other state services, conducting needs assessment and planning, workforce development, etc. The ability and commitment of another department or departments to adequately manage all of these responsibilities, along with the data systems and information technology changes that will be required, has not yet been demonstrated.

A national study commissioned by the Substance Abuse Mental Health Services Administration (SAMHSA) in 2005 (*State Substance Abuse Agencies and Their Placement Within Government: Impact on Organizational Performance and Collaboration in 12 States*, by The Avisa Group) found that, in states where the SSA for alcohol & drug programs was merged with or submerged under another department, the state was unable to advance significant SUD education, prevention, treatment and policy objectives, particularly those objectives that are held jointly with other agencies including mental health, criminal justice, Medicaid and public health, and that Federal funders increasingly mandate.

CADPAAC Recommendations:

- CADPAAC believes that efficiencies can be achieved by realigning specific SUD programs to the counties, and supports moving the state administration of Drug Medi-Cal services to the state's Medicaid agency (DHCS). At the same time, we support maintaining the integrity of the state's SUD continuum of services, including prevention, treatment, recovery, continuing care, etc. We believe that the best way to do this is through a single state agency or department with strong leadership devoted to bringing the needed statewide focus to this continuum of services, and to help the state develop a plan and policy for addressing SUD issues.
- Any future plans regarding placement of SUD services in the state organizational structure must adhere to the following principles:
 - If mental health and substance use disorder services are co-located within the same single state agency or division, the integrity of both fields must be preserved. Each field would maintain its distinct identity, while collaborating on integrated services at the state and local levels – not only integrated co-occurring services for MH & SUD, but also integration of both fields with primary care. This model would be akin to the federal Substance Abuse and Mental Health Services Administration (SAMHSA).
 - Strong statewide leadership on MH and SUD policy is essential. Given the additional responsibilities assumed by counties under realignment, we need leaders at the state level who will work with counties and support county structures. Effective leadership requires Director or Deputy Director-level leaders who:
 - Are equally experienced and articulate in both MH and SUD issues, have demonstrated knowledge and credibility in MH & SUD and are strong statewide advocates for both fields.
 - Have the ability to move the fields forward in health care reform.
 - Can provide direction across all state departments that are affected by MH & SUD.
 - Understand and can address federal issues (especially federal Maintenance of Effort requirements), and can develop linkages to federal structures.
 - Can improve administrative efficiencies and provide common solutions to information technology implementation.
 - Will be strong voices in addressing cultural disparities.

Beneficiary Notification, Appeals, and Protections Work Group

The work group will make recommendations on the enrollment process for the Duals demonstration including specific text and design principles for beneficiary notices. The work group will provide feedback on a coordinated appeals and grievance procedures in order to ensure a more coordinated process, while maintaining beneficiary protections.

Meeting Dates: This work group will meet every other week for 6 meetings.

Thursday, April 12, 2 to 5pm, In Person or Phone,
DHCS Auditorium, 1500 Capitol Avenue, Sacramento
RSVP via this link: <http://conta.cc/HhAWJ4>

Wednesday, April 25, 1 to 3pm, Via Phone
Thursday, May 10, 1 to 3pm, Via Phone
Thursday, May 24, 1 to 3pm, Via Phone
Thursday, June 7, 1 to 3pm, Via Phone
Thursday, June 21, 1 to 3pm, Via Phone

Leadership: Dan McCord, Chief, Health Care Options, DHCS; and, Kevin Prindiville, Deputy Director, National Senior Center Law Center.

Facilitation Support: Margaret Tatar, DHCS; Peter Harbage, Harbage Consulting

Staff: Anne Cohen, Harbage Consulting, Anne@harbageconsulting.com

Provider Outreach and Engagement Work Group

The work group will make recommendations about provider participation in demonstration sites, and will identify strategies to expand managed care plans' provider networks.

Meeting Dates: The Work group will meet 3 times.

Thursday, April 19, 2 to 4pm, In Person or Phone
DHCS Auditorium, 1500 Capitol Avenue, Sacramento
RSVP via this link: <http://conta.cc/HhM6m7>

Tuesday, May 23, 11am to 1pm, Via Phone
Tuesday, June 5, 2 to 4pm, Via Phone

Leadership: Margaret Tatar, Chief, Medi-Cal Managed Care Division, DHCS; David Ford, California Medical Association; and, Pending.

Staff: Amy Turnipseed, Harbage Consulting, Amy@harbageconsulting.com

Long-Term Services and Supports Integration Group

The work group will provide recommendations for how to integrate home and community-based services in an organized system of care, including recommendations for LTSS network adequacy standards and coordination of community resources. In particular, the group will consider issues around CBAS, MSSP, and waivers.

Meeting Dates: This work group will meet every other week for 3 meetings

Thursday, May 3, 1 to 3pm, Via Phone

RSVP via this link: <http://conta.cc/I8ulRj>

Tuesday, May 29, Time TBD, Via Phone

Thursday, June 28 1 to 3 pm Via Phone

Leadership: Lora Connolly, California Department of Aging; John Shen, DHCS; and, Sarah Steenhausen, SCAN Foundation.

Staff: Anne Cohen, Harbage Consulting, Anne@harbageconsulting.com

In-Home Supportive Services Coordination and Integration Group

This work group will focus on the development of contract requirements between health plans and county IHSS entities to ensure the readiness and functioning of the new integrated program. The goal of the work group is the development of a patient-centered care model that ensures consumer protections.

Meeting Dates: This work group will meet every other week for 3 meetings

Friday, May 11, 11am to 1pm, In Person or Phone

DHCS Auditorium, 1500 Capitol Avenue, Sacramento

RSVP via this link: <http://conta.cc/HhXpdT>

Thursday, May 17, 1 to 3pm, Via Phone (could change based on May Revise release)

Thursday, June 14, 1 to 3pm, Via Phone

Leadership: Margaret Tatar, DHCS; Eileen Carroll, DSS; and, County Leader Pending

Staff: Anne Cohen, Harbage Consulting, Anne@harbageconsulting.com

Mental Health and Substance Use Integration Work Group

This work group will focus on understanding and summarizing essential elements required for successful implementation of integrated mental health and substance use services in the Demonstration counties.

Meeting Dates: This work group will meet monthly for 5 meetings.

Wednesday, April 18, 11am to 1pm, In Person or Phone,
1501 Capitol Avenue, DHCS, Pine Room, Sacramento
RSVP via this link: <http://conta.cc/HyUPKp>

Wednesday, May 16, 11am to 1pm, Via Phone
Wednesday, June 20, 11am to 1pm, Via Phone
Wednesday, July 18, 11am to 1pm, Via Phone
Wednesday, August 15, 11am to 1pm, In Person/Via Phone

Leadership: Rollin Ives, DHCS; and, Pending

Staff: Sarah Arnquist, Harbage Consulting, Sarah@harbageconsulting.com
Alice Lind, Center for Health Care Strategies, Inc., alind@chcs.org

Fiscal and Rate Setting Work Group

This work group will support actuaries' understanding of program components and capitation rates for managed care plans, understanding that rate setting is fundamentally a proprietary and confidential effort between plans, the state, and federal government.

Meeting Dates: This work group will meet 2 times.

Tuesday, May 15, 3:30 to 5:30pm, In Person or Phone
DHCS Auditorium, 1500 Capitol Avenue, Sacramento
RSVP via this link: <http://conta.cc/HqfTHw>

Tuesday, June 5, 11am to 1pm, Via Phone
Further meetings are TBD

Leadership: Mari Cantwell, DHCS; and, Tim Reilly, L.A. Care.

Staff: Anastasia Dodson, Harbage Consulting, Anastasia@harbageconsulting.com

Quality and Evaluation Management Work Group

This work group will develop recommendations on quality and outcome measurements and design of the evaluation for the demonstration.

Meeting Dates: This group will meet 4 times.

Thursday, May 17, 3 to 5, In Person or Via Phone
DHCS Auditorium, 1500 Capitol Avenue, Sacramento
RSVP via this link: <http://conta.cc/Hqsl9N>

Tuesday, June 19, 2 to 3:30pm, Via Phone
Tuesday, July 10, 2 to 3:30pm, Via Phone
Tuesday, August 14, 2 to 3:30pm, Via Phone

Leadership: Dr. Neal Kohatsu and Dr. Sherie Smalley, DHCS; Dr. Kenneth Kizer, UC Davis Health System; and, Gary Passmore, Congress of California Seniors

Staff: Anastasia Dodson, Harbage Consulting, Anastasia@harbageconsulting.com
Alice Lind, Center for Health Care Strategies, Inc., alind@chcs.org

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

1700 K STREET
SACRAMENTO, CA 95811-4037
TTY/TDD (800) 735-2929
(916) 227-1943



April 24, 2012

Veronica A. Kelley, LCSW
Deputy Director
Regional Ops and AOD Services
San Bernardino County Dept. of Behavioral Health
850 E. Foothill Boulevard
Rialto, California 92376

Dear Ms. Kelley:

The Department of Alcohol and Drug Programs (ADP) is pleased to inform you that San Bernardino County has been chosen to receive a Strategic Prevention Framework State Incentive Grant (SPF SIG). The SPF SIG is a federal grant designed to help states and communities further data-driven planning, implement evidence-based strategies, and reach desired outcomes quickly. ADP, in collaboration with the Governor's Prevention Advisory Council and the State Epidemiological Workgroup, determined that the priority of California's SPF SIG project will be to reduce underage and excessive drinking among youth and young adults ages 12 to 25 years old.

Redlands has been identified as San Bernardino County's project community. Redlands was identified through a data-driven needs assessment process that compared county and state level indicators of substance abuse, its prevalence, and its consequences. San Bernardino County staff were then interviewed by the Prevention Research Center (PRC), the SPF SIG implementation subrecipient. A randomization process ultimately selected Redlands as one of 12 SPF SIG project communities.

The term of the SPF SIG grant is April 1, 2012 to September 28, 2015. The grant is funded for \$380,000 (\$95,000 per year). The expenditure of SPF SIG funds is subject to the availability period of each Federal award and dependent upon funds being made available from the United States Government for the purpose of this program.

As part of the grant participation, San Bernardino County is expected to appoint an SPF SIG county project director to oversee the administration of the grant. An ADP prevention analyst will contact you this week for the county project director's contact information, or approximate date of appointment. Once the county project director is in place, he/she will be expected to work with the ADP analyst to finalize the SPF SIG Grantee Roles and Expectations and grant budget information for the Notice of Grant Agreement. In addition, the PRC will be contacting your project director in the next two weeks as they prepare to visit Redlands to determine potential community partners.

Again, congratulations on being selected as an SPF SIG grantee. We look forward to working with the Redlands community to implement this exciting project. If you have any questions, please contact the Prevention Services Division at (916) 324-4398.

Sincerely,

MICHAEL S. CUNNINGHAM
Acting Director



DO YOUR PART TO HELP CALIFORNIA SAVE ENERGY
For energy saving tips, visit the Flex Your Power website at
<http://www.fypower.org>

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